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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/581,837 | 06/05/2006 | Juan Simon Bacardit | 803-03-247 | 4603 |
| 23409 7590 05/21/2010 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202 | | | | |
| EXAMINER | | | | |
| COZART, JERMIE E | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3726 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 05/21/2010 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/581,837

Applicant(s)

BACARDIT, JUAN SIMON

Examiner

Jermie E. Cozart

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2010.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
4a) Of the above claim(s) 1-8 and 13 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 9-12 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 05 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/GS/5)
Paper No(s)/Mail Date 6/5/06
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of claims 9-12 in the reply filed on 4/27/10 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: rollers 109 as mentioned on page 7 of the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

4. The abstract of the disclosure is objected to because line 16 of the page on which the abstract is provided is not an appropriate part of the abstract, therefore it is suggested to delete the subject matter contained on line 16. Correction is required.

See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

5. Claims 9-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.
7. Claim 9 recites the limitation "it" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.
8. Claim 9 recites the limitation "the swaging rollers" in line 13 of the claim. There is insufficient antecedent basis for this limitation in the claim.
9. Regarding claim 9, the word "means" is preceded by the word(s) "by" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).
10. Claim 10 recites the limitation "it" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.
11. Claim 11 recites the limitation "it" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.
12. Claim 11 recites the limitation "by" in line 4 of the claim. There is insufficient antecedent basis for this limitation in the claim.

13. Claim 12 recites the limitation "it" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

14. Claim 12 recites the limitation "the rollers" in lines 4 and 5 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (AAPA) in view of Kostermeier (5,107,579).

AAPA discloses at page 1, line 19 - page 2, line 26, that is known to swage a booster, wherein the booster has a cover featuring a wall having a top end, a cylinder featuring a wall having a bottom end.

AAPA, however, does not disclose a cover (203) of a booster (200) being inserted into a support (101) of a swaging device (100), a top end (204) of a wall (205) of the cover resting on a top end (103) of an internal wall of the support, a cylinder (206) of the booster being placed on the cover, a bottom end (208) of a wall (209) of the cylinder resting on the top end of the wall of the cover, a cap (104) of the swaging device being placed on the support, a bottom end (108) of the cap compressing the bottom end of the wall of the cylinder onto the top end of the wall of the cover, a motor being actuated, the swaging rollers (109) being made to rotate about the booster, by

means of the motor, and the bottom end of the wall of the cylinder being swaged continuously onto the top end of the wall of the cover. AAPA also does not disclose the rollers being made to make a radially oscillating movement relative to an axis (C) of the support.

Kostermeier discloses a support (20) of a swaging device (1), wherein the swaging device comprises a cap (21) of the swaging device being placed on the support (20), a bottom end of the cap (21) compressing the bottom end of the wall of a work-piece (50) onto the top end of the wall of another work-piece (50'), a motor (11) being actuated, the swaging rollers (43) being made to rotate about the work-pieces (50, 50') indirectly by means of the motor (11), and the bottom end of one of the work-pieces (50) being swaged continuously onto the top end of the wall of the other work-piece (50'). Kostermeier also discloses the rollers (43, Fig. 2) being made to make a radially oscillating movement relative to an axis of the support (20). *See column 1, lines 55-59, and column 3, line 10 – column 6, line 51 for further clarification.*

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to swage the booster of AAPA by using a swaging device having the above recited elements, in light of the teachings of Kostermeier, in order to provide a high quality rapidly produced folded seam connection between assembled between cup shaped work-pieces.

Allowable Subject Matter

17. Claims 11 and 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references listed on the attached PTO-892 are cited to show swaging/hemming devices for assembling parts.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermie E. Cozart whose telephone number is 571-272-4528. The examiner can normally be reached on Monday-Thursday, 7:30 am - 6:00 pm.

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on 571-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jermie E Cozart/
Primary Examiner, Art Unit 3726

May 13, 2010